



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/355,149	03/07/2000	ULF ASSMUS	2345/87	6071

26646 7590 06/20/2006

KENYON & KENYON LLP
ONE BROADWAY
NEW YORK, NY 10004

EXAMINER

LEE, MICHAEL

ART UNIT	PAPER NUMBER
----------	--------------

2622

DATE MAILED: 06/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/355,149	Applicant(s) ASSMUS ET AL.	
	Examiner M. Lee	Art Unit 2622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 April 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-3, 5-9 are rejected under 35 U.S.C. 102(e) as being anticipated by Muntz et al. (5,896,427).

Regarding claims 1, 2, 3, Muntz discloses an ATM receiving device (Figure 6) showing a network reference clock (614), and a FIFO memory device (620). The network reference clock is independent of the source data 618.

Regarding claim 5, see col. 6, lines 45-48.

Regarding claim 6, the receiving device in Figure 4, being similar to the one in Figure 6, includes a means for adjusting the received data stream to the clock rate of the clock provided (see timing control stage 404).

Regarding claim 7, see col. 2, lines 65-68.

Regarding claim 8, the network reference clock 414 meets the external normal clock as claimed.

Regarding claim 9, the cell/packet receiver 616 meets the switchover device as claimed.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Muntz et al. (5,896,427).

Regarding claim 4, Muntz does not specify the storage period as claimed. The examiner takes Official Notice that the data FIFO memory 620 in Muntz can be configured to store data in any time period to compensate any transmission delay. Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to configure the FIFO memory 620 to delay data in the time period as claimed.

Response to Arguments

5. Applicant's arguments filed 4/18/06 have been fully considered but they are not persuasive.

Applicant points out that the 35 U.S.C § 102(b) rejection on the previous Office Action was incorrectly applied; instead, it should have been a 35 U.S.C. § 102(e) rejection. The Examiner acknowledges the error. And correction is made. The Office

apologizes for the confusion. Since there is no change to the rejection context, the same rejection is maintained.

In considering applicant's argument that Muntz reference is not believed to identically describe the device of claim 1 for receiving data transmitted using asynchronous data transmission technology, a data-independent clock signal being added to the device, having a memory device, which stores the received data for the required period of time in order to compensate for transmission delays, and that the clock signal is sent to the memory device for read out of the data, the Examiner disagrees. As stated in the rejection, Muntz clearly shows all the limitations of the claimed invention. The operation of the receiver can be found in col. 11, lines 7-36.

In considering applicant's argument that Muntz reference does not describe each and every feature of claim 4 including that the device for receiving data transmitted using asynchronous data transmission technology, a data-independent clock signal being added to the device, having a memory device, which stored the received data for the required period of time in order to compensate for transmission delay, and that the clock signal is sent to the memory device for readout the data, and that the FIFO memory is dimensioned so that the received data are storable for a period preferably 100 Φ s to 240 Φ s per switching node, the Examiner disagrees. As stated in the rejection, the data FIFO memory 620 in Muntz can be configured to store data in any time period to compensate any transmission delay and thus, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to configure the

FIFO memory 620 to delay data in the time period. Accordingly, the Office rejection has addressed all the limitation of the invention.

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to M. Lee whose telephone number 571-272-7349. The examiner can normally be reached on Monday through Thursday from 9 to 6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David L. Ometz, can be reached on 571-272-7593. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR.

Art Unit: 2622

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to be 'M. Lee', with a large loop at the start and a long, sweeping tail.

M. Lee
Primary Examiner
Art Unit 2622